

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

400S0280

SENATE BILL NO. 33

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the 24/7 sobriety
2 program, to authorize the collection of certain fees, and to authorize the use of ignition
3 interlock devices.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 32-23-23 be amended to read as follows:

6 32-23-23. Any driving permit issued by the court to any person, who has been convicted of
7 a violation of § 32-23-1 ~~within the last ten years or any driving permit issued pursuant to § 32-~~
8 ~~23-2, if that person had 0.17 percent or more by weight of alcohol in that person's blood,~~ shall
9 be conditioned on the person's total abstinence from the use of alcohol, the person's participation
10 in the 24/7 sobriety program created by §§ 1-11-17 to 1-11-25, inclusive, in those ~~areas~~ counties
11 where 24/7 sobriety testing is available, ~~and~~ the payment of associated costs and expenses and
12 the person meeting one of the following conditions:

13 (1) The person had a previous conviction for a violation of § 32-23-1 within the last ten
14 years; or

15 (2) That the person had a 0.17 percent or more by weight of alcohol in that person's



1 blood at the time the violation occurred.

2 The court shall immediately revoke the permit upon a showing of proof by a preponderance
3 of the evidence that the person has violated this condition.

4 Section 2. That § 1-11-25 be amended to read as follows:

5 1-11-25. Any fees collected under §§ 1-11-17 to 1-11-25, inclusive, shall be distributed as
6 follows:

7 (1) Any daily user fee collected in the administration of twice a day testing, drug patch
8 testing, or urinalysis testing under the 24/7 sobriety program shall be collected by the
9 sheriff, or ~~the~~ an entity designated by the sheriff, and deposited with the county
10 treasurer of the proper county, the proceeds of which shall be applied and used only
11 to defray the recurring costs of the 24/7 sobriety program including maintaining
12 equipment, funding support services and ensuring compliance;

13 (2) Any installation and deactivation fee collected in the administration of electronic
14 alcohol monitoring device testing shall be collected by the sheriff, or ~~the~~ an entity
15 designated by the sheriff, and deposited with the county treasurer of the proper
16 county, the proceeds of which shall be applied and used only to defray the recurring
17 costs of the 24/7 sobriety program including maintaining equipment, funding support
18 services, and ensuring compliance;

19 (3) Any daily user fee collected in the administration of electronic alcohol monitoring
20 device testing shall be deposited in the state 24/7 sobriety fund created by § 1-11-18;
21 ~~and~~

22 (4) The Department of Corrections or the Unified Judicial System may collect an
23 installation fee and a deactivation fee in their administration of electronic alcohol
24 monitoring device testing. These fees shall be deposited into the state general fund;

(5) Any enrollment and monitoring fee collected in the administration of ignition interlock device testing shall be collected by the sheriff, or an entity designated by the sheriff, and deposited with the county treasurer of the proper county, the proceeds of which shall be applied and used only to defray the recurring costs of the 24/7 sobriety program including maintaining equipment, funding support services, and ensuring compliance; and

(6) Any participation fee collected in the administration of testing under the 24/7 sobriety program to cover program administration costs incurred by the Office of Attorney General shall be collected by the sheriff, or an entity designated by the sheriff, and deposited in the state 24/7 sobriety fund created by § 1-11-18.

Section 3. That § 1-11-18 be amended to read as follows:

1-11-18. There is hereby established in the state treasury the 24/7 sobriety fund. The fund shall be maintained and administered by the Office of the Attorney General to defray costs of operating the 24/7 sobriety program, including purchasing and maintaining equipment and funding support services. The Office of the Attorney General may accept for deposit in the fund money from donations, gifts, grants, participation fees, and user fees or payments. Expenditures from the fund shall be budgeted through the normal budget process. Unexpended funds and interest shall remain in the fund.

Section 4. That § 1-11-24 be amended to read as follows:

1-11-24. The Office of the Attorney General, pursuant to chapter 1-26, may promulgate rules for the administration of §§ 1-11-17 to 1-11-25, inclusive, to:

- (1) Regulate the nature, method, and manner of testing;
- (2) Provide for procedures and apparatus for testing including electronic monitoring devices and ignition interlock devices;

- 1 (3) Set participation and user fees; however, user fees for twice a day testing ~~shall~~ may
2 not be less than one dollar per test; and
- 3 (4) Require the submission of reports and information by law enforcement agencies
4 within this state.